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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,604	11/12/2003	Loran Lewis Wyman		9001

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EXAMINER

TRETTEL, MICHAEL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 04/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/712,604

Applicant(s)

WYMAN, LORAN LEWIS

Examiner

Michael Trettel

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-20 is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☒ Claim(s) 12-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

Claims 1 to 4 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Mohler (US 5,046,204). Mohler shows an infant wrap 10 formed from a sheet of blanket material. The wrap is defined by a pouch 24 at a lower edge formed with two feet receiving booties 26, 28, and an upper portion formed by a center portion extending upwardly from the pouch that terminates at a hood 20, and a pair of flaps 16, 18 extending from the center portion and terminating at end regions 34, 38. Hook and loop fastener patches 32, 36 are placed upon the flaps 16, 18 and cooperate to attach the flaps together in an overlapped arrangement when the flaps are folded over an infant as is shown in Figure 3. The total width of the upper portion is defined by the width W shown in Figure 2, while the height of the upper portion is formed by the height H minus the overall length of the pouch 24. While the drawings are not meant to be to scale, as laid out in Figure 2 the width of the upper portion is greater than the height.

Claim Rejections - 35 USC § 103

Claims 5 to 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mohler. The dimensions set forth in claims 5 to 9 are within the ordinary level of skill in the art, since the applicant has not shown how or why these particular dimensions are critical and since the skilled

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artisan would be presumed to be able to select and use dimensions needed to fit the Mohler blanket to various sizes of individual users. Because of this claims 5 to 9 are regarded as being obvious, since they are within the ordinary level of skill in the art.

Allowable Subject Matter

Claims 16-20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 12 to 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response To Arguments

Applicant's arguments filed February 1, 2005 have been fully considered but they are not persuasive. The applicant has argued that the Mohler reference lacks all of the claimed subject matter, and that in particular that Mohler lacks a pouch having a top opening configured for receiving a pair of feet. To this end the applicant has noted that Mohler uses a pair of booties which each receive a single foot. This argument is unpersuasive for the following reasons. Claims 1 and 3 state that the blanket has a lower portion, wherein the lower portion forms a pouch having a top opening configured for receiving a pair of feet. There is no language present in the claims stating how the pouch is structurally formed, instead the claims only state what the pouch is meant to do. This fails to define over the Mohler reference because the pair of booties can together be considered to be a pouch that receive a pair of feet, since there is no language

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present in the claims to preclude such an interpretation. Alternatively either one of the booties can be considered to be a pouch attached to the lower portion of a blanket, with the use of the pouch (i.e., "configured for receiving a pair of feet") being irrelevant to the structural details positively claimed. Since the remaining arguments depend upon the arguments presented against Mohler they also fail to overcome the rejection, and are thus irrelevant to the issue at hand.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trettel whose telephone number is 703-308-0416. The examiner can normally be reached on Monday, Tuesday, Thursday, or Friday from 7.30 am to 5.00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Michael Trettel
Primary Examiner
Art Unit 3673